

REMARKS

In the Specification:

The Examiner objected to the disclosure, page 2, line 14, because the serial number for attorney docket number 659/691 was missing. The applicants have amended the disclosure to include this number, 09/659,307, and respectfully request the Examiner to withdraw this objection.

Rejections Under 35 U.S.C. § 103

Claims 57, 58, and 62 were rejected under 35 U.S.C. § 103(a) over Bonk (U.S. Patent No. 4,101,026) in view of what the Examiner refers to as Applicants' Admitted Prior Art. In the alternative, the Examiner has rejected these claims as being obvious over Bonk in view of the assertion that "reverse engineering" is well known in the art. Applicants traverse both rejections, and in light of the following remarks, request the Examiner to withdraw these rejections.

Applicants traverse the assertion that Applicants' specification discloses that it is known for a competitor to obtain a wet wipes dispenser of an original manufacturer, analyze the dispenser by measuring the dimensions thereof, manufacture wipes refills based on the measurements, and sell the refills for prices at or below those charged by the original manufacturer of the dispenser.

The Applicants' disclosure on pages 9 and 10 does not teach or suggest that the various aspects of the method claimed in the current application **have been** tried in the past, as this is not stated in the text nor is the disclosure written in the past tense. Likewise, the Applicants' disclosure on pages 9 and 10 does not teach or suggest that the various aspects of the method claimed in the current application are **known** to be performed, any more than the remainder of the Applicants' disclosure could be incorrectly characterized as being known.

This portion of the disclosure is in essence, a description of one embodiment of the Applicants' invention. Knowledge known by the inventor cannot be attributed to all of those skilled in the art and therefore, the motivation to combine cannot be provided by the Applicants themselves. It must be provided by the prior art.

Moreover, the Examiner's assertion that Applicants' background statements qualify as prior art is contrary to the law. In the decision of *In re Dow Chemical*, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988), it is noted that:

The consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art...Both the suggestion and the expectation of success must be founded in the prior art, **not in the applicant's disclosure**. [Emphasis and ellipsis added]

In the alternative, the Examiner asserts that the Applicants' disclosure is not required to render claims 57, 58, and 62 obvious over Bonk. The Examiner asserts that "reverse engineering" is known to those skilled in the art. Applicants respectfully traverse this rejection and respectfully point out that even if it is known in the art to take the article disclosed in Bonk and to apply reverse engineering, this would not teach or suggest all of the features taught and claimed by the present application.

Claims 57, 58, and 62 recite a method which includes:

providing instruction to remove the tray from a second dispenser and to place the container in the interior of the second dispenser. [Emphasis Added]

There is no suggestion in Bonk that providing instructions for the replacement of a tray by a container would be an obvious teaching of reverse engineering. The Examiner has yet to provide any reference that teaches or suggests the step of providing those instructions and therefore, each and every element of the claimed invention is not disclosed by the references asserted. In light of the foregoing remarks, Applicants respectfully request that the Examiner withdraw the rejection of claims 57, 58, and 62.

Allowable Subject Matter

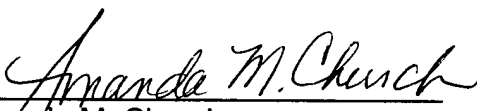
Applicants gratefully acknowledge that the Examiner would allow Claims 59, 60, 61, and 63 if rewritten in independent form including all of the limitations of the base claim and any intervening claims. While the Applicants are grateful for this indication,

Applicants believe that the independent claims from which these claims depend are allowable and, as such, it is premature to amend these claims at this time.

SUMMARY

In light of the foregoing amendments and remarks, Applicants believe that claims 57-63 are in condition for allowance and respectfully request the Examiner to withdraw the previous objections and rejections and grant early allowance of this application. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,


Amanda M. Church
Registration No. 52,469
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200